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SUBJECT: PROSECUTOR GENERAL TO INTERROGATE 69 SOLDIERS OVER  
2005 SAN JOSE DE APARTADO MASSACRE

Classified By: Political Counselor John S. Creamer,  
Reasons: 1.4 (b) and (d)

SUMMARY  
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¶1. (SBU) On February 22, the Prosecutor General's Office (Fiscalia) summoned 69 soldiers - an entire company from the 17th Brigade - to a formal interrogation hearing into the February 21 2005 massacre of eight members of San Jose de Apartado peace community. The summons to a formal hearing does not involve formal charges, but the Fiscalia found "sufficient evidence" linking the company to the massacre to warrant further questioning. The summons created public friction within the Fiscalia, with Human Rights Unit head Leonardo Cabana briefly threatening to resign. Embassy officials have repeatedly stressed the importance of this case to the Prosecutor General, the Ministry of Defense, and Casa Narino, as well as support for the Fiscalia's handling of the case. The Defense Ministry assured us they are cooperating with the Fiscalia's investigation.

PROSECUTOR GENERAL SUMMONS ENTIRE COMPANY  
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¶2. (U) On February 22, the Prosecutor General's Office (Fiscalia) summoned 69 soldiers - an entire company - to a formal interrogation hearing (indagatoria) into the February 21 2005 massacre of eight members of the San Jose de Apartado peace community. The victims included an 18 month infant, a 5 year old, and an 11 year old who was decapitated. The Fiscalia asked for the Ministry of Defense's (MOD) cooperation in locating the retired and active 69 soldiers, including two officers and nine noncommissioned officers, who belonged to the 33rd Counter-guerrilla Battalion of the 17th Brigade. The military blames the massacre on the FARC.

¶3. (C) The indagatoria does yet involve formal charges, but Leonardo Cabana, Human Rights Unit head, and Nelson Casas, the prosecutor in the case, told us on February 23 they had "sufficient evidence" linking the company to the massacre to require further questioning. Such evidence includes witness testimony and inconsistencies between the company's order of battle that day and soldiers' statements. Cabana expects the indagatoria will produce sufficient evidence to indict individuals, possibly on charges of homicide and state terrorism.

FRICTION WITHIN THE FISCALIA OVER HANDLING OF CASE  
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¶4. (C) The indagatoria has caused public friction within the Fiscalia. Local media reported February 28 that Cabana had offered his resignation to Prosecutor General Mario Iguaran to protest Fiscalia International Relations Director Maria Fernanda Cabal's provision of information on the case to the MOD without Cabana's authorization. Vice MOD Sergio

Jaramillo confirmed to us on March 2 that Cabal had visited the MOD on February 26, criticizing Cabana's decision to summon the soldiers and providing the MOD with an internal Fiscalia letter on the case. Jaramillo said he had met with Cabana on February 28 to discuss ways to improve communications between the MOD and the Fiscalia, but had made no effort to interfere in the Fiscalia's investigation. Jaramillo stressed the MOD was completely cooperating with the San Jose investigation and had already pulled the soldiers under investigation from the field to make them available to the Fiscalia for interrogation.

EMBASSY REITERATES CONCERNS OVER THIS CASE WITH GOC  
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15. (C) We have repeatedly voiced concerns over the San Jose de Apartado case to the GOC. On February 16, Polcouns and DOJ Program Director met with Cabana to highlight the importance of moving forward on San Jose, as well as other high-profile cases, and offered security for the fiscal (Casas) investigating the case. Polcouns and the DOJ Program Director followed up separately with Mauricio Gonzalez, legal advisor to President Uribe, on February 28, Prosecutor General Iguaran on March 1, and Vice MOD Jaramillo on March 2 to express our support for Cabana's and Casas' handling of the case and to urge continued progress. Iguaran has publicly expressed his support of Cabana, whom we expect to stay on in his position, Fiscalia sources tell us Casas will also remain on the case.  
DRUCKER